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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,420	07/18/2003	Anthony J. Baerlocher	01112300-1457	4074

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EXAMINER

NGUYEN, KIM T

ART UNIT

PAPER NUMBER

3713

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/623,420

Applicant(s)

BAERLOCHER ET AL.

Examiner

Kim Nguyen

Art Unit

3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-6, 11-17, 22-33 and 35-54 is/are rejected.
- 7) ☒ Claim(s) 7-10, 18-21, and 34 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

The amendment filed on May 26, 2004 has been received and considered. By this amendment, claims 1-54 are now pending in the application.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-6, 11-17, 22-33, and 35-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamille (US patent No. 5,996,997) in view of Bennett (US Patent No. 6,102,798).

a. As per claim 1 and 3-6, Kamille disclose a game device comprising a plurality of paths (4 rows in Fig. 7A), each path includes a plurality of symbols associated with outcomes or path change conditions (prize amounts and arrows in Fig. 7C); and a display device for displaying objects as claimed (col. 5, lines 30-47). Kamille does not explicitly disclose including a symbol marker. However, Bennett discloses displaying a marker (col. 3, lines 63-65). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to implement the marker of Bennett to the game device of Kamille in order to highlight the symbol the player selects.

- b. As per claim 2, Kamille discloses arranging symbols in a cyclical path (Fig. 6B).
- c. As per claim 11, since Kamille discloses playing game via a network (col. 5, lines 35-38), Kamille obviously discloses receiving input through a network.
- d. As per claim 12, 14-17, and 22-23, refer to discussion in claims 1, 3-6 and 11 above.
- e. As per claim 13, 24, 30, 37-38, 45-46, and 52, refer to discussion in claim 2 above.
- f. As per claim 25-29 and 31, refer to discussion in claims 1, 3-4, 6 and 11 above.
- g. As per claim 32-33, indicating the number of symbols a marker has moved to and displaying the indicator next to a path would have been well known to a person of ordinary skill in the art at the time the invention was made.
- h. As per claim 35-36, 39-44, 47-51, and 53-54, refer to discussion in claims 1, 3-4, 6, 22, 39, and 42 above.

Allowable Subject Matter

- 3. Claims 7-10, 18-21, and 34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
- 4. The following is a statement of reasons for the indication of allowable subject matter:

Prior arts of record does not disclose a gaming device set forth in claims 1, 12, and 29 in which the symbol marker includes a graphical representation which indicates to the player how many symbols of the identical type the symbol marker has moved to.

Response to Arguments

a) In response to applicant's argument in page 2, last paragraph, and page 3, first two paragraphs, the Lemay application is withdrawn from applying as a prior art to the present application.

b) In response to applicant's argument in page 3, last paragraph, Kamille does disclose a gaming device comprising a plurality of paths (four paths (or 4 rows) in Fig. 7A), each path including a plurality symbols associated with an outcome (\$5 WIN in Fig. 7C), or path change condition (arrows in FIG. 7C). Further, since Kamille discloses that the game can be played on a video game machine (col. 5, lines 30-47), Kamille obviously encompasses disclosing a display device for displaying the game on the video game machine. Further, Bennett does disclose using a display device (col. 2, lines 65-67).

5. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action. Any response to this final action should be mailed to:

Art Unit: 3713

Box AF:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9306, (for formal communications; please mark "EXPEDITED
PROCEDURE")

Hand-delivered responses should be brought to Crystal Plaza II, Arlington, VA
Second Floor (Receptionist).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim Nguyen whose telephone number is (703) 308-7915. The examiner can normally be reached on Monday-Thursday from 8:30AM to 5:00PM ET.

The central official fax number is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148.

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Date: September 3, 2004


KIM NGUYEN
PRIMARY EXAMINER